1913

[illegible]

157 (A)

[illegible]

[illegible]

Correspondence

[illegible] relating to the Separation of the Judicial and Executive functions in Algiers

G. R. S. IX-5]

Previous references.

1923.

(45.)

File No. Enclosures.

Serial Nos. 1,2,3 & 6/0.

Later references.

Enclosures to
ct 157-18-1

18/8/21

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Eleven.

Part B for

SUBJECT.

D.O. correspondence relating to the Separation of the Judicial and Executive functions in Mysore.

Efficiency and Miscellaneous.

7. Preparation of a list of the urgent needs of the Judicial Department including the system of recruitment.

WD 1888—GPB—16,826—23-7-21

Gr. III

(1) & Separation of the Judicial and Executive functions.

****

List of papers.

A — Office Notes.

(2)

1. D.O. Nos 11, 15 & 16 to 22 dated 16-2-14.
   To all Cooperators.
   Request to be favoured with a Note of their views on or before the 20th March, if not inconvenient to them

2. From Mr K.S. Chandrasekhara Esq
   D.O dated 4-3-14.
   States that he will prepare & send a Note of his views during the summer vacation

3. From Mr S. Sitaramiah dt 15-3-14
   Prays for an extension of time upto the end of March, for submitting his Note.

4. From K. Chandrasekharaiya.
   dated 19-3-14.
   Promises to send up a Note of his views on

5. Mr. K. Chandrasekharaiya
   D.O. dated 30-3-14.
   Note of his views.

6. From Mr S. Sitaramiah
   D.O. dated 31-3-14.
   his views.

7. From Mr D. Venkataramiah.
   D.O. dated 6-4-14
   Forwards a Note of

8. From Mr Humza Hussain. D.O. dt 11-4-14
   Promises to send a Note during [illegible].

Reminder dt 4/April

(3)

9. From Mr. C. S. Doraswami Ayer.
No 22 dated 18-5-14.
Forwards a Note of his views.

10. Minute on Judicial Reforms.
by Hon. K. Chandrashekhara Ay.
9-6-1914

Serial No.

Benches of Magistrates

Vide G.S. 306 of 1912-13

As directed in person by the Govt the following note is subd :-

With a view to ascertain the need the institution of Benches of Magistrates in the Head Quarter towns of all the districts except Bangalore & Mysore, where the Benches have already been working, the Dist. Magts of the six districts were asked to furnish Govt with a statement of criminal cases triable by Benches during each of the past 5 yrs and filed in the magisterial courts of these the Hd Quarter towns and were consulted also on the need of relief to these courts on account of heaviness of work or public interest in general.

In forwarding the statement called for, the Dist. Magts of Chitaldrug and Tumkur stated that no relief was needed by the courts of these districts while the other four Dt Magistrates considered that relief was needed. Shimoga is emphatically in favour of the institution of the Bench while Hassan makes an alternative proposal of either the Bench or of investing the Sub-Regr of Hassan with magisterial powers to give relief to the Court of the Jy Asst Coll to that of the Asstd ar. Kadur also is stated to need relief when the Munsiff Magistrate of Kolar is recommd

NOTE—Contn. sheet.

Serial No.

for being digests of 3rd class cases, only 2nd class cases being taken up by him.

Kly. - 129

19.8.13

NOTE—Contn. sheet.

GDE—48,000—17-6-12.

(6

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

In regard to Organisation & Development Question. No 7. put up herewith I am required to be guided by your direction.

2. I have sent copies of the printed forms today to the gentlemen who are to cooperate with a d.o. letter, the draft of which is also enclosed for kind perusal.

3) I have also put up the other forms relating to the subjects assigned to me for your information.

First member

Drew
16/2

If you are to be guided by me, I should have liked to see the letter sent before its issue —

4) Seen. Let me see the replies as received please —
27/2/14

17/2/14

Drew
28/2

C.G.R. Put up replies
28/2

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—20,000—24-12-13

(7

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

5) A reply received on 4-3-14 from Mr. K. S. Chandrasekhara Iyer is put up herewith for favour of perusal. No other replies have as yet been received.

First member)

Draft 5/3

6) Seen. 5/3/14

Draft 6/3

7) Mr. S. Seetharamaiya and Mr. K. Chandrasekharaiya, have asked for an extension of time up to the end of this month for the submission of Notes of their Views.

8) All the papers connected with this subject are put up herewith for reference.

First member)

Draft 24/3

9) Seen 24/3/14

Draft 28/3

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—20,000—23-12-13

(7)

(8

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

10) Notes of views received from Mr. K. Chandrasekharaiya and Mr. S. Seetharamaiya, are put up herewith for favour of perusal.

First member)

Dass 4/4

11) Seen. How many more are due? Please remind.

3/4/14

Dass 6/4

12) A Note has since been received from Mr. D. Venkataramaiya and is put up herewith.

13) Notes are still due from the following gentlemen

1.) Mr. K. S. Chandrasekhara Iyer
2) " Hamza Hussain
3) " L. Srinivasa Iyengar
4) " M. C. Ranga Iyengar
5) " C. S. Doraswami Iyer
6) " S. P. Rajagopalach

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—20,000—23-12-13

G.R.S. 13]

9

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Of these, as already stated above, Mr Chandrasekhara Iyer has intimated that he ~~was~~ will prepare and send his note during the vacation. If approved, reminders will be sent to the other 5 gentlemen in the form annexed.

Yes DMM
6/4

× vide sls ✓ 1°

× D.O. reminders issued on 8-4-41.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—20,000—28-12-13

(10

O.D. No 7.

Report for 13/3/14

(1) Rt of 9 co-operators mg one, Mr Ch. Jya (Justice) has acknowledged –

(2) My Skeleton* Note is annexed.

Dewan
13/3

Dewan's remarks on 28.4.14.

"Some of the cooperators want time. Investigation to be pursued till 15th July 14."

O. D. No 7. 11

List of urgent needs of the Judicial Dept.

(1) Very much less delay than now in the disposal of cases should be secured.

(2) Better System for service of processes is necessary.

(3) The over crowding of the legal profession at important Centres with all the consequential ills.

(4) Measures for ensuring a more satisfactory System of promotions in and appointments to the Judicial Dept.

(5) A suitable scheme for getting from 6 to 8 hours work from every Judge who has not got sufficient legitimate work of his own.

(6) The maintenance of a Record of Work turned out by every Judge in respect to both quantity & quality as far as these can be judged from the work statements, Judgments & remarks made by Superior Courts in appeals & revisions.

(7) The number of times the parties & witness have to attend Courts - is so large that much waste of time, business, & energy results: —

Note. These heads will be developed and definitely stated in due course.

Dec 13/3

Subject No 7

Office of the Dewan of Mysore. 12

NOTE.

Dated 7th May 1914.

With reference to the Organization and Development questions under the head "Efficiency and Miscellaneous" the Dy Secretary ~~the Secretary, General & Revenue Departments~~, is requested to be so good as to submit a statement showing, against each subject, the names of officers and gentlemen who have undertaken to study the notes and views, of all who have agreed to co-operate, and to prepare a final note embodying recommendations for practical action.

I undertake to do this under the orders of the First Member as already arranged.
Dewey 15/5

2. Two columns may be added, one showing, as definitely as may be, the work expected to be completed by the 15th July next and the other, the probable dates of submission of final notes, if they cannot be done before 15th July.

If the First Member approves, I shall submit this accompanying Statement to the Dewan.
Dewey 15/5

3. The Members of Council, to whose departments the questions pertain, may be consulted before furnishing the statement. In the case of subjects which they wish to deal with finally, either themselves or under their orders, further action may be taken as desired by them and a note added in the statement to that effect with dates.

First Member) Dewey 15/5

4. A form in which the information is required is attached. It may be filled in and returned by the 15th but not later than the 20th instant.

Intd. M. V.

8. 5. 1914.

Organization and Development questions.

from 3rd April to 31st July 1914.

Serial No.	Subject.	Name of officer or non-official gentleman responsible.	Work likely to be completed by 15th July.	Probable date before which a final note with definite recommendations may be expected.	Remarks.
7.	Preparation of a list of the urgent needs of the Judicial Dept including the System of recruitment	Mr D.M. Gunasinghe under the direction of the First Member of Council.	Yes	15th July next.	

Done
15/5

(14

O and D. — No. 7.

"The Subject has been referred to Br III for being dealt with the Subjects of the Judicial Conference. Further Consultation has ceased." (sd) D. N. N.
10. 7. 14

The above course was approved of by the Dewan on 10. 7. 14.

G.R.S. 18]

(15

Routine Notes

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Mis 626-15

Mis. 343/15-16

16-11-15.

Cutting from the Karnataka of the 10th November 1915 containing an article on the Separation of executive and judicial functions in Mysore.

Submitted. This may be sent to Branch III.

Bx 16-11

MM 18/11

Sec[d] for perusal. May this be placed in the file about the Separation of the functions?

Yes. MM 25/11/15

Yes. 25/11.

Yes. 26/11.

—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-8-15

"The Separation of Executive and Judicial Functions in Mysore.

(BY "S. S.")

This paper suggests a scheme for the separation of the Judicial from the Executive functions in Mysore. A brief sketch of the development of the existing system in British India which is practically the same as the system in Mysore is therefore a fitting prelude to a judicious consideration of the scheme set out in the following pages.

For the first time in British India, in 1787 the functions of the Collector, Magistrate, Judge and Police Officer were united in one individual. This scheme was justified as a legal consequence of the people under despotic authority being accustomed to look to one master. It was also due to the impossibility of drawing, at that time, a line between the Revenue and Judicial Departments so as to prevent their clashing with each other and, in a large measure, to the responsibility of the State to see that neither their Revenue nor Administration suffered. An experience of the working of this system for six years, during which the administration of justice was sacrificed to the fiscal interests of the Government, led to its overthrow. In 1793 the Collectors were stripped of their Judicial powers and justice was no longer sacrificed to what was "vulgarly called politics." After a lapse of 18 years, in 1821, the Revenue Officers were reinvested with the powers of Magistrates. The Court of Directors once more changed their mind in 1837. The Collectors had sadly neglected their work;—our own Deputy Commissioners have ceased to try cases, but confined themselves to the inevitable hearing of indispensable appeals. So for a second time there was a severance of the two Offices. By an accident in Indian history, with a view to strengthen the hands of the Collectors, they were given back in 1851-60 what they were deprived of in 1837. This reunion was consummated in the teeth of the very strong recommendations of the Police Commissions of 1838 and 1860 against conferring Magisterial powers on Collectors. Insult was added to injury by saddling them with the Police supervision of the District. Sir Bartle Frere's "temporary compromise" like the income tax in England and the plague in India came to stay.

In Mysore, from the scanty material available to the public, it appears that, in the days of the British Commission, the Deputy Commissioner and the Amildar were exercising judicial powers but that, at some period previous to the Rendition, these Magistrates were divested of civil powers and that a Sub-Judge and Munsiff were appointed for each District to administer Civil justice. There has been no change in this respect since then.

The Magistrates in the District are subordinates of the Deputy Commissioner (Collector) who is the chief Revenue Officer, District Magistrate and head of Police for the District. Their future depends on his confidential reports. "To make a judge's promotion dependent on the favor of the Chief Police Officer is a direct and most unwholesome incentive to him to gratify his master's wishes." Again, not infrequently, the Magistrate owing to his manifold functions has a substantial interest in the conviction of the accused; in such cases, the exercise of Magisterial functions is a matter of secondary importance. A perversion of justice and, sometimes perpetration of acts of oppression will naturally result therefrom. What is still worse, the Superintendent or the Inspector of Police becomes a mere tool in the hands of a strong Deputy Commissioner or Amildar, absolutely without either independence or responsibility for initiative and *vice versa*.

It is amazing that so profound a criminal lawyer like the late Sir James Fitz James Stephen should sacrifice a sound principle of Jurisprudence on the altar of personal rule, dignity, prestige and the like. According to this eminent jurist, "the maintenance of the position of District Officers is essential to the maintenance of British rule and any diminution in their influence and authority over the natives would be dearly purchased even by an improvement in the administration of justice." This was applied by him to the conditions of 1872; but surely, now as then, British rule in India rests on a firmer foundation than this.

In Mysore, as in the rest of India, circumstances have greatly altered for the better. The heads of administr not exercise judicial functio country is neither in an open, paring for a secret rebellion; th such violent crime as in the days people have turned peaceful and down. "Elements capable of re ing disorder" have mostly disa Education is spreading; knowl vastly expanding. Principles of and technical law are dispensed ges and argued by counsel. Li is increasing. Representative ment has been introduced larged from time to time so broad-based on the people's wi budget is discussed and interp regarding the conduct of officials tions of importance are raised Representative Assembly and in gislative Council. Local Self- ment is gradually becoming r effective. The theory of prestige necessary "to maintain the po District Officers amongst native tomed to despotic authority" lost its foothold.

Eminent Anglo-Indian adm have no partiality for prestig ber of the Police commission later Lieutenant-Governor of Be Frederic Halliday was against union of the Magistrate with th tor has been stigmatised as inco but the function of the thief-cat judge is surely anamolous in th more mischievous in practice. as it lasts, the public confidenc criminal tribunals must alwa to injury and the authority o self must often be abused applied and the power is not a sufficient remedy,—the justice under such circumstanc in a few cases nor any pro cases, but in every case. In Magistrate is constable, prose judge". The Hon'ble Mr. J. the Governor-General's Counci a minute to the same effect i judicial ermine is, in my j of place in the byways of Policeman in any country, a ways in India are unusuall the combination theory were reality, if an officer, after b endeavouring to corrupt laying himself out to hea tell-tale has to

ting his wit to the utmost stretch, wicks perhaps, in order to beat his ersary in the game of detection were sit down gravely as a judge and e process to try dispassionately e evidence given in court whether 's adversary had won the game, I convinced that one or two cases would excite as much indig- would save me the necessity of ment *a priori* against the combi-

ous civil cists from time to separated separation and ov. of united India was focus- th Redhouse Memorial presented Secretary of State in 1899. The was exploded and a won, but there was no Finally, in 1908 the India declared that they to effect a separation of the financial aspect of prohibitive for the time Government of Mysore is the same opinion. tried 6 years ago, was not much of a ungardly crumb thrown ing feeling. The principle completely and There is every reason judging from the pro- session of the Repre-

Indian Publicists de- dissents do not go far in of judicial separation principle upon which posed is the same. The judicial officer is safe- him independent of subordinate to the justice is ensured as by not giving him work. He should not officers, an itinerary and good pay ise the danger of guided by other siderations. Th and adjudication officers. If the separated from administration of justice Whatever the the success of it is, in the hands of the Government. Efficient officers and an efficient staff must be provided at the outset from the available material regardless of caste, creed or colour so that there may not be an Efficiency Audit following in its wake to deplore inefficiency in the department and to set up standards of efficiency for the guidance of effete, inefficient and incapable officers and their staff who are unfit in their places to begin with and to remove whom—the officers are not responsible for this state of things but those that put them there—it requires a great deal more of moral courage and independance than governments ordinarily possess. This is the more necessary as individuals wronged in an original court have invariably very few chances of obtaining redress at the hands of appellate tribunals who decide mainly from the records before them.

The scheme maintains the Chief Court and the Sessions Courts as before. Then there will be a Sub Judge for each District with the extraordinary powers of a District Magistrate. As a salve upon his outraged and self-respecting conscience, the Deputy Commissioner will continue for some time to supervise the calendars of the other Magistrates of the District and to attend to such other quasi-judicial work of a purely executive character. Each district will have one Magistrate of the first class. Magistrates of the first class for the towns of Bangalore, Mysore and Kolar Gold Fields will continue and for every two taluks there will be a Sub-Magistrate with 2nd & 3rd class powers & with powers of committal. The Amildar will be completely divested of Magisterial functions and of Police also, if possible, to give him time and scope for his varied and ever-increasing activities. 35 of these Sub Magistrates will be appointed. Every District head-quarter will have a bench of Honorary Magistrates and every village or group of villages will have a village magistrate corresponding to the village Munsiff.

Civil justice will be administered by the existing District Courts, the Sub-court of the district and 14 Munsiffs instead of 18 at present. There will be a Registrar for the Chief Court, but no Deputy Registrar.

Now with advancement and progress on all sides, with village Magistrates and village Munsiffs, with village panchayets and with village improvement schemes, with benches of honorary Magistrates in big towns, with co-operation on every side, surely the administration of justice under this scheme will not fall behind the existing standard and it may, God willing, improve for the better.

Financing the scheme appears to confront us at every step. Five additional Sub-Judges, 8 Magistrates of the first class and 35 Sub-Magistrates have to be provided. They must also be given establishments. The solution looks complex, but it is commended for the consideration of the Government. Here is an estimate of the probable expenditure.

(1) Five additional Sub-Judgos (500 50/1 600 average 550 x 5 x 12)	Rs. 33,000
(2) 8 First Class Magistrates-Rank of Assistant Commissioners (8 x 300 x 12)	Rs. 28,800
(3) 35 Sub-Magistrates (100 25-1—200. 150 x 35 x 12)	Rs. 63,000
Establishments	Rs. 1,00,000
	Rs. 2,24,800

From this estimate some large deductions will have to be made as shown presently. The judicial staffs of the Amildars and assistant Commissioners, & to some extent of the Deputy Commissioners and 4 Munsiffs' courts will be at the disposal of the judicial department. On Assistant Commissioners relinquishing their judicial functions, it will not be necessary to maintain their number at their present strength. With the treasury Assistant Commissioner attending to the routine work of the District, in his absence the Deputy Commissioner must manage the District with one Revenue Assistant by ordinarily keeping as he does now, the revenue work of 1 or 2 taluks for himself. The present light work of the District Excise officers should be entrusted to this Revenue Assistant Commissioner who, relieved of his judicial labours will have time to supervise the excise work of the District. Even under existing conditions our Sub-Division Officers have very light work compared with their fellow-officers in

British India. Under the suggested arrangement, the financier will save the pay of 8 Assistant Commissioners and 8 District Excise Officers amounting to Rs. 52, 800. Also the travelling allowances of two officers for each District *i.e.*, of 16 officers for the State amounting to about Rs. 32,00 will be saved.

The abolition of the office of the Deputy Registrar of the Chief Court which is seldom overburdened with work will replenish the treasury to the extent of about Rs. 2500. Then, the work in court of the Munsiff at Hassan is not such as to necessitate another court within 22 miles of it. The Tumkur Munsiff may have heavy work on hand owing to various circumstances, but that is no reason for another appendage at Maddagiri which has very insufficient work for a Munsiff. There is the least justification of all, however, for a Munsiff's court at Dodballapur as if Dodballapur will inspire and promote more litigation than Nelamangala. Again, suitors in Yedehalli were managing without a Munsiff's court for 8 years and probably, the revival of the court at Narasimharajapur will now deplete Chikmagalur and Shimoga of the bulk of their original work. These establishments are a great deal more costly than the corresponding benefits which accrue to the people from their existence and no one ought to bemoan their loss. Rs. 12,000 will be saved from the disappearance of these courts apart from the cost of establishment.

As regards the Amildars and Deputy Amildars under the scheme, half their time and three fourths of their energy can be utilised for other purposes. Mysore taluks are not a half or a third of those in British India, a few not being even 200 Square miles in area. The Malakalmuru Taluk has only 9 hoblies and was once the charge of a Deputy Amildar; some Taluk head quartors are within 10-15 miles of each other. The Government is busy with railway construction work and there is a net work of very good roads throughout the province. An Amildar can conveniently take a bigger charge to manage, especially when he was not got to administer criminal justice. But this is not suggested wholesale for a different reason. An Amildar's work is daily increasing; it is also proposed here that he should attend to the work of A.E. & I. with greater diligence, thus rendering the existence of the District Superintendents of A. E. & I., superfluous after 2 years. Anekal and Devanhally in the Bangalore District should be divided amongst the neighbouring taluks with due regard to geographical consideration. Closepet has no justification for a separate existence, but must go with the small taluk of Chennapatna. Chickballapur in the Kolar District is a very small charge, but a very important trading centre; and if the Sub-Taluk of Gudibanda be added on to it, the Amildar will have sufficient work to engage him. Srinivasapur may once again become part of Chintamani. In the Tumkur Disirict the Sub-taluk of Turuvekere may be merged in Tiptur. Jagalur in the Chitaldrug District may be parcelled out between Chitaldrug and Davangere: Malakalmuru may be changed into a Sub-Taluk. Holenarsipur in the Hassan Dist, with 3 hoblies is 20 miles from Hassan and 14 from Arkalgud. The Hassan, Arkalgud and Channarayapatna taluks may well get additions from its disruption. The Sub Taluk of Alur has only 2 hoblies; it is about 15 miles from Saklaspur and 3 from Hassan. These Taluks might partition Alur between them. Honnali and Shimoga may divide Kumsi and likewise Malavalli may be added on to Mandya and T. Narsipur. From the disappearance of these Taluks and Sub-Taluks with their establishments, and with the distribution of the work of the Superintendents of A. E. & I. amongst the Amildars and Deputy Amildars, the Government will effect a savings of Rs. 75,000.

As regards the drain of the Revenue Commissioner's Office on the public exchequer, no satisfactory explanation has been so far given to the people. The increase of establishments in the Secretariat which is expanding out of all proportion to our Revenue and to our requirements renders the existence of the office still further unnecessary. The Government will have a sum of Rs. 65,000 at their disposal by the abolition of the Revenue Commissioner's office.

The Government will thus be able to save about 2½ lakhs of rupees from these changes. In an ordinary year, the Government will admittedly realise a surplus of Rs. 20 available for extraordinary expend A small portion of this surplus fund tioned to the judicial departmen Rs. 1 lakh, will easily render the s of separation feasible, even if the ernment be not prepared to follo suggestions of this paper in full.

It has been seen that even fina the scheme is practicable. If the nistration of justice is not above cion, the Government ceases to be and at once becomes weak. In the state of Mysore, the solution of th blem should no longer be shelved Government of the day which, in and out of season, professes so sympathy with separation burke discussion and wreck on the rock of finance. steered through whole- faint, half-hearted and part an experimental basis here bound to fail. It is not the dom to proceed in that details of a scheme should minutely and the entire sc introduced in the whole St be taken in the selection pecially during the early in these days of progress ment, a sympathetic and Government with an enlightened at its head should not fight sh scheme for the sake prestige of Revenue Officer for the purpose of preventin content amongst them. It is c bound to be unpopular amongst e officers whose Magisterial pow taken away from them, but th sacrifice their authority for the the people. They should bear the advice of Lord Hardinge to t Officers that in the days to co must be willing and ready to some of their powers to the peop

The Late Sir Pheroze Mehta.

HIS LIFE AND WORK

Sir P. M. Mehta was born on 1845, at Bombay. His father successful merchant, a partner Kama and Co., who had bou fortune with Calcutta at an A gentleman of remarkably shrewdness and sagacity, he

...fairly understood the ... commercial education. ... school career was rapid, and ... Matriculation Exami... graduated as a B. A. of the ... 1854 and passed with ... A. Examination six mon... nominated as a Fel... Sir Alexander Grant ... Elphinston College, was ... with the talents of the ... from the day of his en... College, and at his wish, ... to Lincoln's Inn and ... the Bar in 1868. While in ... made himself very useful in ... with his Guru, Dadabhoi ... among others who worked ... W. C. Bonnerji, the first ... National Congress. Mr. ... to Bombay and interest... all matters connected with ... the country.

THE BOMBAY CORPORATION.

... be generally known that ... public event in which Mr. ... deeply interested himself ... was that set on foot in 1869 to ... Dadabhoi Naoroji with a ... for his services in Eng... ... after occurred a re... in the annals of the ... Municipality. The financial ... first Municipal Com... not equal to his ... genius. Not only did ... willard aspire to clear the ... accumulated filth of half a ... bring down its death rate ... per thousand, but also to ... water-supply to the in... ...ation of Bombay. The ... a huge engineering failure ... heavily with a heavy debt. ... the crisis thus caused, Mr ... a paper on Muni... ... which he dealt ... of the scan... ...ood the mischief of an ... Council as was then ... suggested an elected ... Committee, and ... ...missioner. And these ... ...ion the first Munici... ultimately framed. ... Mehta reveal his abi... ...ing statesman at the ...

In 1886 the Government of Lord Reay appointed Mr. Mehta a Member of the Local Legislative Council. The most important piece of legislation which he had to deal with was the Municipal Bill of 1888. Mehta had by that time a unique experience in municipal administration, lasting over twenty-two years including the two years during which he was the President of the Corporation.

FOR THE COUNTRY.

In the sphere of the politics of the country Mr. Mehta's services had begun equally early. In conjunction with Mr. K. T. Telang, he founded the Bombay Presidency Association. It was owing to his exertions jointly with those of Mr. Telang and Badruddin Tyabji that Bombay was able to achieve during the days of the Illbert Bill agitation the reputation of being the most sober in political judgment. The meeting held in the Town Hall to protest against the foolish antics of the Anti-Illibertites will remain memorable as long as the Government of British India lasts. Mr. Mehta took a prominent part in organising a unique and suitable farewell demonstration to Lord Ripon in 1884.

Sir P. M. Mehta has been a staunch supporter of the Indian National Congress from the very day of its birth. He had the honour of being elected one of its Presidents so early as 1890. His Presidential Address was marked by a mestery of the national situation.

IN THE VICEREGAL COUNCIL.

In the very first year of his election to the Imperial Council he came into collision with the official members, more especially Sir Antony (now Lord, MacDonnell, and Sir James Westland. The former was in charge of the Police Bill which had evoked considerable opposition, not only from the poople, but also from a body so loyal to official measures as the Bengal Chamcer of Commerce. Some of its provisions were so obnoxious that it met with the stoutest opposition from every Anglo-Indian paper of note. The object of the measure was to convict and punish individuals without judicial trial under cover of executive measures for the preservation of order, and Sir Pherozesha hit hard by declaring that he could not conceive of legislation "more empirical, more retrograde, more open to abuse, or more demoralising."

But the officials decked in brief authority had not been accustomed before to such plain speaking, and Sir Pherozeshah was accused of introducing a "new spirit" in the Council Chamber. But by the criticism on the Police Bill, Sir Pherozeshah only gave a foretaste of his incisive irony, pleasant sarcasm and brilliant invective. On the occasion of the budget debate, he rose to his full height, and his first budget speech will stand as a memorable landmark in the annals of the Imperial Council. It is a masterly criticism of the financial policy of the "most distinguished service" in the world, clothed in language full of provoking banter and playful sarcasm.

AS AN ORATOR.

As is well-known, Sir P. M. Mehta has been one of the best, if not the best, Indian orater. And in that respect the following passage from an appreciation by D. E. Wacha, hislife long friend and coworker, will be interesting:—"Though never specially trained in the art of oratory, Sir P. M, Mehta's rolling and eloquent periods charmed the audience. He has the happy gift of placing the hearers from the very first in good humour, and he instinctively knows what to say and how to say it. The audience becomes immediately attracted towards him magnetically; and the more enlivening, eloquent and instructive is his speech, the more it expresses its delight by ringing cheers and deafening applause. By long experience Sir P. M. Mehta has found the key to success in public speaking. He knows when to pitch the key of a given subject high and when low, when to roar like the lion and when to coo like the gentle dove. He knows when to rail and ridicule, when to cover an adversary with humiliation, when to be gay and frolicsome and when to be grave in order to pour forth in all earnestness words of practical wisdom and counsel of perfection. He might sometimes be mistaken. He might sometimes be deceived. All the same, for the time being, he makes a powerful impression on the minds of hearers. In the Halls of the University and the Corporation and in the Chambers of the Legislative Council, there is none so lynx-eyed to find a flaw in procedure and constitution. And in this respect he would not unfavourably compare with any old Parliamentary hand, and would make his mark even on the floor of the House of Commons."

D. O. Nos. 11, 16 to 22 & 15 (20

8l

General & Revenue Secretariat

Bangalore, 16th February 1914

Sir,

I am to enclose herein a copy of the printed statement showing the subject against which you have been mentioned as one of the gentlemen who have agreed to cooperate with Government.

I am directed to enquire whether you will find it convenient to cooperate with Government in devising a suitable scheme on the subject; and, if so, to request you to be so good as to favour me, as the officer responsible, with a note of your views in the matter on or before the 10th March next.

Yours Sincerely,

Dy. Secretary to Govt.

Confidential.

ORGANIZATION AND DEVELOPMENT QUESTIONS.

For the months of February and March 1914.

Main head—**Efficiency and Miscellaneous.** Section (iii) Under investigation and development.

Serial No.	Subject	Name of officer or other gentleman responsible	Names of gentlemen who have agreed to co-operate with Government	Time fixed for completion of any specific portion of subject or of whole	Arrangements for rapid completion, notes and remarks (*Note.*—Progress will be reviewed on Friday, 3rd April 1914)
7	Preparation of a list of the urgent needs of the Judicial Department including the system of recruitment.	Mr. D. M. Narasinga Rao under the direction of the First Member of Council.	Mr. K. S. Chandrasekhara Iyer. ,, Humza Hussain. ,, L. Srinivasa Iyengar. ,, M. C. Ranga Iyengar. ,, C. S. Doraswami Iyer. ,, S. Sitharamayya. ,, K. Chandrasekharayya. ,, D. Venkataramaiya. ,, S. P. Rajagopalachar.	Note to be furnished by 31st March.	.....

(1) Under "Main head", enter one of the three following:—

(i) Administration (12 subjects).

(ii) Economic Conference (12 subjects).

(iii) Efficiency and Miscellaneous (12 subjects).

(2) Under "Section", enter one of the four following:—

(i) Watching operation and progress of measures and schemes already introduced.

(ii) Proposals and schemes to be matured or brought into force shortly.

(iii) Proposals and schemes under investigation and development, and maintaining up to date information upon specific subjects.

(iv) Collecting and spreading information, and preliminary enquiries into schemes or proposals.

(3) As a rule, the officer or gentleman responsible should review and bring progress to notice on the last Friday of every month.

2

D.O. from No 16.

4th March 1914.

Dear Mr Narayanrao,

Your D.O. No: 11 of the 16th Febry 1914.

I shall certainly be very happy to place before Government such suggestions, especially in regard to the improvement of the efficiency of the Judicial Department, as occur to me from time to time.

As I have pressure of court-work just now, I hope to find time to draw up a note during the vacation on certain points which I have already

already in mind.

Yours Sincerely
K. Ramasubbarao

To
D.M. Narasinga Rao Esq.

23

GOVERNMENT OF MYSORE

Y 17 (a) 23

General and Revenue Secretariat,

Bangalore, 8/4/1914.

Sir,

I am to invite your kind attention to my D.O.No. dated 16th Feb. 1914 requesting to be favoured with a note of your views on the marginally noted subject before the 20th ~~of this month~~ March 1914. and to enquire when your reply may be expected.

Youre Sincerely,

Dft) JMG 6/4

Deputy Secretary to Government.

24

S. SETTHARAMAIYA,
VOCATE,

D.O. From No. 26 - 24

SHIMOGA.

15th March 1914.

17

Sir,

With reference to your D.O. No 20. of 16th inst.,

I feel it is primo duty to do my humble best in the matter of co-operation with the Govt.; but having otherwise unavoidably busy for the past one month I was not able to bestow my full attention on the Subject till now, nor do I think it possible to do so for about a week more.

I would therefore request you to be so good as to get me an extension of time till the end of this month for the sake of my views in the matter.

Yours Sincerely,

S Setharamaiya

Esq

To.

D. M. Narasimha Rao Esq BA BL.

Dy. Secretary to Govt.

Bangalore

19-3-1914. 25
Mysore

Sir,

With reference to your D.O. No. 21 E/ I regret to inform you that I mistook the date of forwarding to you my note on the needs of the Judicial Department to be the 30th of March 1914, instead of the 20th idem as I gather from your letter. I shall, however, expedite the matter and send you my note by the 30th instant at the latest.

Yours sincerely
K. Chidambaram Iyer
Advocate, Mysore.

To
R. Narasimhan Esqr.
B.A. & B.L.
Deputy Secretary

Draft-
Acknowledge ✓
with thanks
Secy
31/3

D. O. Form No 11.

25

Mysore,

30th March, 1914.

Dear Sir,

I herewith send you my Note on the "NEEDS OF THE JUDICIAL DEPARTMENT" as requisitioned in your D.O.No.31/E1, dated 16th February, 1914.

I remain,

Yours sincerely,

K. Chandrasekhariah.
Advocate.
Mysore

To,

D. M. Narasinga Rao Esqr. B.A. & B.L.
&c.

N O T E

on

" THE NEEDS OF THE JUDICIAL DEPARTMENT "

I. The separation of the Judicial, in Mysore, from the Executive.---

The constitution of the country divides the functions of the Government into three branches:-- The Legislative, to make the laws; the Executive. to execute the said laws; and the -- Judicial. to decide all rights between individual and individual, and between individual and Government. But the maintenance of the liberty of the individual, more especially when the individual is pitted against the Government, can only be properly secured -- and made firm and assured when the Judicial Branch is made independent and impartial. The greater the independence of the --- judges, the the stronger their influence and the more satisfactory is the administration of Justice. ,In a proper sense, Judges are servants of the people and have to do their work for the people and in the best interests of the people; hence, Judges must -- enjoy the complete confidence of the people. For this end, -- therefore, we must have Judges with courage, independence and -- impartiality. And to this end, the Judicial branch of the ---- Government must be made thoroughly independent.

This opens up, therefore, the question of the separation of the Judicial from the Executive branch of the Government. This question has been hanging fire for solution for so many years in British India, while it has been already solved in such progressive Native States like Baroda. Even the Government of India is convinced of the necessity for the separation, but for some ---- reasons that are apparent to all, the matter is postponed from time to time. There are not so many difficulties as in British India, in introducing this reform in a progressive and model State like Mysore, which has gone ahead of British India in several matters of general administration.

The principal features of the scheme are indicated below:---

All the Amildars and Assistant Commissioners who are invested with magesterial powers should be relieved of their -- magisterial functions. For every one, two or three Taluks, as the case may be, a Munsiff Magistrate should be appointed with powers to try both Civil and Criminal cases. At each District Head Quarters there should be a Subordinate Judge who should also be invested with the powers of hearing all Criminal appeals from 1st, 2nd and 3rd class Magistrates. For every two Districts -- there should be a District & Sessions Judge, or three District & Sessions Judges for the three Divisions as there are at present, and above them all the Chief Court. All the officials subordinate to the Chief Court are to be appointed by the Chief Court, subject to the approval of His Highness the Maharaja. These are the fundamental principles of the scheme and the necessary details can be worked out on these lines. At first sight, this scheme may appear not to recommend itself on account of the extra cost, it may seem to involve. But if the matter is worked out in all its details, it will become clear that there would be no extra cost or that the cost would not be so very great and prohibitive as may be imagined. The necessary corollary to this scheme would be the diminution of the number of Assistant Commissioners who -- thence forward will be available to do purely Revenye work, for which the Deputy Commissioner and one or two Assistant Commissioners would be enough for each District. If even with the curtailing of the number of Assistant commissioners, the scheme should cost a little more than what it is at present, that additional cost would be well spent for a good cause.-

II. To make the Judicial Department a technical Department:-

But if it is felt that it is not expedient at the -- present moment to give full effect to the scheme of the separation of the Judicial from the Exucutive, then it remains to be seen how the Judicial Department constituted as at present can

can be improved to turn out more efficient work and to infuse greater confidence in the people. The work turned out by our judges is, in the generality of cases, inferior both in quantity and quality to that in the neighbouring Provinces.

To attain our object the Government will have to thoroughly change its policy in treating the Judical Department. The first and foremost thing that the Government ought to do is to consider the Judicial Department as a technical department. All the evils that have at present arisen in this department are due to the utter disregard of this fundamental principle, viz., that the Judicial Department is a technical department requiring special study and special training. The mixing up of the Revenue, Police, Excise, Survey, Judicial and other departments as one -- cadre or service, instead of keeping the Judicial as a separate service, has largely accentuated this evil and thorough deterioration and demoralisation have set in in the lower ranks of the Judicial service, and inefficiency in the higher ranks. The lower ranks of the service, viz., the Munsiffs, naturally become thoroughly demoralised when they see that, notwithstanding the discharge of their duties efficiently and conscientiously, their promotion is blocked and men who have lost touch with the judicial department are drafted on to the higher ranks, to the utter disappointment of the Munsiffs and to the utter disregard of efficient work. It may be presumed that these evils arising out of this system have not escaped the notice of the Government, which appears to feel the difficulties*, it is essential that the Judicial service should be separated from the others and kept a distinct one. This is the first and foremost change that it necessary to be introduced. The Judges of the Chief Court, -- District and Sessions Judges, Subordinate Judges, Munsiffs and the City Magistrates of Mysore and Bangalore, and the Special Magistrate in the Kolar Gold Fields (the three latter doing now purely judicial work) should all constitute the Judicial Department.

* Even filling up vacancies in the Chief Court, also the District Courts, Subordinate Judges' Courts

30

III. Recruitment of the Judiciary. :---

The next point to be considered is the recruitment and promotion of Judicial Officers.--

Taking the recruitment of Munsiffs to begin with, it must be admitted that the present system of recruiting is far from satisfactory. At present, Munsiffs are recruited from Judicial Probationers, Ministerial officers and practising Lawyers. With regard to the first two, they can hardly be said to make efficient officers. What with their inexperience and want of touch with the practical working of the Courts and the practical application of Law, almost all of them with very few exceptions, have proved -- failures. Judicial probationers have very little opportunity of practical study of Law and Evidence, and the ministerial officers much less. With regard to the third, the present method of -- selecting men from practising lawyers is not at all satisfactory. Lawyers are appointed Munsiffs, not from any considerations of learning, experience and success at the Bar, but from family and other considerations. The result has been that in most cases, Lawyers who were not successful at the Bar and who had not gained much experience, have been selected to fill the places of Munsiffs As it is, a briefless lawyer who has got the time and the knack to ingratiate himself into the good books of the Chief Court Judges and the members of the Government has every chance of getting a Munsiff's place, while a young lawyer who works diligently and commands good practice but who cannot spare his time to the detriment of his profession to dance attendance, is left in the cold and never gets a chance.-

To remedy these defects, the recruitment of the Munsiffs and other higher judicial officers should be placed on a systematic footing, as is being done in Madras and Bombay. All the judges should be selected from among the members of the Bar. As it is, Judges not having been drawn from the Bar, there is not real touch nor a good understanding between the Bench and the Bar All the

the Munsiffs should be selected from among the Lawyers who have got an approved practice of not less than five years; all the subordinate Judges generally should be appointed from Munsiffs who have put in not less than ten years of efficient service; all the District Judges generally should be appointed from Subordinate Judges who have worked efficiently for not less than 5 years and all the Chief Court Judges should be appointed from efficient -- District Judges of not less than five years standing. Generally speaking promotions to the higher grades of the service should be made as above indicated, but in order to infuse new bolld and make the service more vigorous, it is necessary occasionally to appoint to the higher grades of the service men diredtly from the Bar, if such can be found. This practice of appointing capable lawyers direct to the higher grades of the Judicial service would be a very great incentive to the Bar to be up to date and efficient, and an efficiant Bar means an efficient Bench and the result will be an efficient administration of Justice. The Bench and the Bar act and react on each other and any inducement offered to raise the efficiency of the Bar will be sure to raise the efficiency of the Bench and the administration as a whole. The importance of having an efficient Bar can not be over-rated. We ought to get our Judges from the Bar and add to the education of the Judges, when on the Bench, by the Bar. It is the tome of the Bar, the ability and learning of the Bar that necessarily affect the learning and standards of the Bench.-

IV. Re shifting of Judges to other Departments.-

When once an officer enters the Judicial line, he must never be taken out of it and drafted on to any other department, and then brought in again to the Judicial line. Such a course will not conduce to the efficiency of the department. A Judicial Officer if taken out of the Judicial line and drafted on to the Executive line, will lose his touch with law and cannot cultivate a Judicial frame of mind. The tendency of Judicial officers in most cases at present is to try to get out of the Judicial

Judicial line and not to work whole-heartedly; this is due to their having better prospects in other departments and to the importation of officers to the higher grades of the Judicial service from other departments, and the consequent disappointment it involves to the officers in the Lower Grade. These naturally think it easier to get into the higer grades of the Judicial service by making another department a stepping stone to it, --- where the chances of getting higher pay and promotions are large. Instances can be quoted of officers, who by getting out of the Judicial line have had their prospects much improved and become senior in rank and pay to the men who were their seniors in the Judicial department. As already stated, the consequence of this has been general discontent and loss of efficiency in the department. The recent change made by the Government in fixing the scale of pay on a time-limit has, no doubt, improved the --- prospects of the Munsiffs, but in order that it should be worked out more satisfactorily, a Munsiff should be started on a pay of Rs.200/-- a month and after a probation of one year in that grade his pay should be Rs.250/-, rising to Rs.450/-. This step will place the Judicial department on a level with the other departments, attract the best men to it and offer no temptations for a change. When once a person enters the Judicial department, he must be made to stick to that department and get his promotion there alone. And if once he is removed from that department, he must not be taken back to it again. If the pay, promotion and rise in pay are granted and future hopes of rising to the highest pay obtainable in the other Branches of Government are held out before them, the Judges are sure to work with contentment and zeal

V. Tests for efficiency.---

Promotions from the Lower grades to the Higher grades of the service should not be by seniority,. The sole test to be employed is the test of efficiency. To determine the effi-

ciency

efficiency or otherwise of an officer in the department, a system of efficiency audit should be introduced. The number of dis--- posals should not be taken as the important factor as is now -- generally done in judging the work of a Judicial officer. The quantity of the work coupled with the "disposal" of cases should be taken into consideration. This can be done by the judges -- inspecting the Courts subordinate to them at least twice during the year. A printed form containing queries to elicit all the information required should be filled up by the Inspection-Judge. He should also take the records of a few cases selected by the Judge of the Court and a few others chosen at random by himself, make a a thorough study of the same and note how cases are handled and disposed of, how points of law are discussed and how evidence is recorded etc. Every appellate Judge must maintain a confidential register in which should be entered impressions, such as the time taken for disposal of the case, the discussion of the legal points, if any, that arise in the case, the appreciation of the evidence in the case and any peculiar points that he may notice in the judgment of the Lower Court. And the Appellate Judge should submit a report of the work of each judge subordinate to him based on such notes and also of notes of personal inspection of the Court made by him, as to the general efficiency or otherwise of the judge of the Lower Court. Columns should be opened in the Annual Administration report, showing the number of contested cases disposed of by each judge by name, the number appealed against and the number confirmed or reversed in appeal. The Chief Court should form an opinion of the officer concerned on such notes and also on the impressions that they get in appeal -- casesthat come before them and on such personal inspection of the work of the Courts done at least twice during the year. Any officer who is found to be inefficient should be warned for the first time and if he still continue to be so, his promotion should be stopped and if he does not turn over a new leaf even

even then, he may be suspended or otherwise dealt with as the Chief Court thinks best.

VI. Judges' Library.---

To help the Judges to become efficient and to have an up-to-date knowledge of law, it is most essential that all the Courts should be supplied with all the Indian Law Reports, and some good Text books on the Law of Evidence, Procedure, Limitation, Hindu and Mahomedan Law, Contracts and Property, and some well conducted legal Journals, Digests and Index of Cases.-

Each District Court must be equipped with a good --- Library containing all the Law Reports including English Law Reports, Standard works on the different Branches of Law and must subscribe to all well-conducted legal journals. All books and journals from this Library shall be allowed to be borrowed by the Subordinate Courts and the members of the Bar for reference and return.

In this way the Judges of the Lower Courts must be made to be up-to-date in Law and educate themselves for higher --- responsibilities.-

VII. Delay and cost of litigation.- ---

The Legislature and the Courts must be induced to simplify procedure and Judges should be made to show a disposition to cut down the expenses of litigation as far as possible. At certain stages of the cases, judges should be freely allowed to express their honest opinion in the case, without prejudice to the evidence to be adduced there-after and the final decision -- that may be arrived at, so as to afford parties an opportunity to compromise the case without any further cost and trouble. In a word, Courts must be made vehicles of quick "justice at little cost."

VIII. The pay of the officials.--

The pay of the officials of the Civil Courts was fixed decades ago. Cost of living has increased nearly three fold and they are not able to make both ends meet, and to be honest and diligent in discharge of their duties. Discontent, bribery, and embezzlement have been the consequence. Their pay, therefore, should be sufficiently raised to keep them above need, greed and temptation.-

K Chandrasekhariah,
Advocate,
Mysore,
20/3/14.

S. SEETHARAMAIYA,
ADVOCATE,

SHIMOGA.

31st March 1914.

Sir.

With reference to your D. O. No 20 d. 16th ultimo. In compliance with it, as stated by me in my last letter of the 15th instant, I am enclosing herewith "a List of the urgent needs of the Judicial Department" with my reasons therefor. Kindly acknowledge receipt.

Yours sincerely

S. Seetharamaiya

Advocate

To.

O. M. Narasingarao Esqr.
Deputy Secretary to Govt.
Bangalore.

From S. Vasudevamaiya, Advocate, Shimoga

A list of the urgent needs of the Judicial Department:—

I (a) Improvement of process departments

1. The constant adjournments of cases owing to non-service of summonses and absence of witnesses and the consequent delays in most of Civil cases are often due to inefficiency, corruption, and mal-practices in the process department.

2. A patient and careful consideration and scrutiny into the non-service of processes to witnesses in Civil Cases, will convince any mind that it is due mostly not to the causes endorsed thereon but to something else given below; which

is not easy and practicable to detect successfully and as such borne unavoidably by the parties concerned without any remedy.

The secret of this is, the ill-paid process peons and ameens who are entrusted with the witness batta often misappropriate the amount to meet their needs and return the processes unexecuted, and manage to get another set of processes entrusted to them so as to cover the extent of the amounts misappropriated by them, if not more, sometimes, not without the knowledge of the nazir who distributes processes and allowances.

It will not be too much to say that some nazirs

[redacted]

themselves are some-
-times the authors of
such misappropria-
-tions and returns
with impunity.

3. Any number of
rules, restrictions and
supervisions may
not be able to success-
-fully detect such
cases, punish the
offenders and bring
about a reform in
the department.

4. The only practical
remedy that suggests
to me to irradicate
this long-standing
evil is to make the
payment of batta
i.e; travelling expenses
to witnesses, when they
attend the Court on
the dates of hearing,
as is done in Criminal
and Revenue cases,
— a procedure
which will not only
put an end to the
mal-

mal-practices in
question, but also
will have a very
strong moral effect
on the minds of
some of the Judge
and check their di
-positions to some
extent at least, i
the matter of puttin
off cases for some
reason or other; and
further, the necessit
for the maintenance
of some the present
of registers in the
Department will
no longer exist.

Note:—. This change
in the procedure
of payment of
travelling expenses
involves the amend-
-ment of the pro-
-vision of the Civil
Procedure Code
in this respect, viz,
Order XVI. Rule III C.P.C.

(b) Preparation of a Manual for the use of

Besides the above change in the procedure, a

of process department and the introduction of a Test therein.

a radical improvement in the process staff is also necessary so as to ensure recruitment of better set of men in the department.

So far, I understand, there seems to be no clear and definite guide for the Process department, defining the duties of the Process Wazir, the Process Server and the Ameen and the diverse procedures to be adopted in the service of processes etc. The preparation of a manual for the use of the Process department defining the duties of the staff (& the procedures), above referred to, and the introduction of a Test in the manual for Candidates seeking the

the employment in that Department and at the same time, raising the pay of the staff, particularly the Process Servers and Ameens, so as to make it attractive to honest and capable men with some Education.

2. I would suggest for the present the following scale of pay to the Process Servers and Ameens whose cases demand immediate consideration being paid and effect given, leaving out the case of Nazirs for future consideration as this seems to be not so very urgent for the present.

Process peons from Rs 8/- to 12/- per month

monthly, that is each starting with Rs 8/- rising to Rs 12/- with an annual increment of Re 1/- each.

Ameens from Rs 14/- to 20/-, that is, each starting with Rs 14/- rising to Rs 20/- with an annual increment of Rs 2/- each, subject, of course, to the usual restrictions for promotion of each official giving satisfaction in the discharge of his duties.

II Improvement of the Status of other Subordinate Staff.

This is another part of the subject that demands equally urgent attention being paid, without much loss of time. The present set of Subordinates in many instances are quite unequal to their work. Their

Their inefficiency is one of the main reasons for the delays in the disposal of cases and miscellaneous matters. Papers are often kept by through ignorance and sometimes even mislaid, and matters are not brought to the notice of the Court and necessary orders are not obtained for months together, and the parties are consequently put to a lot of inconvenience and trouble — a state of affairs not easily rectified, unless some restrictions are imposed before entertaining such subordinates into service.

When graduates enter (Lower) Subordinate service

(as defined below)

Service, they do so under necessity, and with discontent. They will generally be brooding over their lot and would not have a peace of mind to acquaint themselves thoroughly with the work entrusted and somehow pass their days doing work in a slipshod manner, till they get a left which will generally be done not on account of their real efficiency but on the strength of their University qualification. This discontented mind and state of affairs continue all through their career until they secure some decent

decent footing in Service. The result being no efficiency, good training and experience acquired by the officials concerned and a lot of trouble and worry to the Judges and the parties (from afterwards), ~~consequently~~ ~~thereafter~~.

I would, therefore, suggest that the Subordinates Service may be divided into two Sections, namely, Upper Subordinate and Lower Subordinate.

The Upper Subordinate Service, carrying a salary of Rs 35/- and above per mensem and the Lower Subordinate Service below Rs 35/-. The Lower Subordinate Service being confined to non-

non-graduates who are anxious to enter service, and the Upper Subordinate Service, to graduates as well as experienced and competent non-graduates of Lower Subordinate Service.

There should therefore be two Tests introduced in view to secure efficiency of Service, namely, Upper Subordinate Test and Lower Subordinate Test.

The Upper Subordinate Test, consisting of the Local Civil, Revenue, and Criminal Examinations as well as an Examination in Rules of practice, manuscript Reading and Elementary Book-keeping, and the Subordinate Service manual

manual referred to hereunder &c

The Lower Subordinate Test to consist of an examination in Rules of Practice as well as Stamp, Court Fee, Limitation, and Procedure passages as far as applicable to Subordinate Service, Elementary Book-keeping, Manuscript Reading and Hand writing, &c

The latter examination being opened to all who know English enough to pass the examination, the Universities qualifications not being absolutely necessary and the former

former Examination being opened to matriculates and above as well as non-matriculates who have put in Lower Subordinate Service for not less than five years.

The pay of these Lower Subordinate Officials may be raised with regular annual increment thirty Sterling pay being not less than Rs 10/- in any case ~~(illegible) Rs 10/- to (illegible)~~ The details being worked out having regard to the scale now in force with such alterations as are necessary.

(6) Preparation of a manual for the use of the ministerial Establishment.

To facilitate the above object, the preparation of a manual for the use

use of the ministerial Establishment of all Civil Courts: defining the duties of the various Departments and the object and the purposes of the several registers would be necessary. Similarly another manual containing all the Rules of Practice applicable to Civil and Criminal Courts as well as the rules under Civil and Criminal Procedure Codes may be prepared and made available to all those who wish to pass the Subordinate Examination.

III Recruitment of Judicial officers.

Inefficiency of Judicial offices is the chief basis for constant

Constant adjourn-
-ments of cases, re-
-mands from the
appellate Courts and
delays in the disposal
of cases before them.

Experience im-
-presses on our mind
that this inefficiency
in the officers is mostly
due to their having
been recruited ~~from the Bar~~
from the ministerial
service and in some
cases by the enterlain-
-ment of inexperienced
and raw graduates.
But those
~~Those~~ that are selected
from the Bar have
almost invariably
proved very efficient
judges both in higher
and lower grades.

Their appreciation
of evidence and their
application

application of law
to the cases before
them, their weighing
of probabilities and
above all their ex-
-peditious disposal
of cases are striking.

It is sure (Tempore) to prove
a very wholesome
and efficacious rule,
if in recruiting
officers to the Judicial
Department, prefer-
-ence ~~the~~ is given to
practising Advocates
generally, subject
of course, to the agree-
-tions in force,
and chances being
given to ministerial
Department in very
exceptional cases;
as, the mere fact
that a ministerial
official happens
to be a law-graduate
would

would not avail much, as he will have lost touch with the practical side of the law and experience. His knowledge and training having been confined to the narrow limits of ministerial routine.

In making selection from the Bar a general rule as is prevailing in the Bombay Presidency appointing the members of the Bar according to their seniority standing in the profession excepting exceptional cases, would be very satisfactory, and also put an end to all heart-burnings and discontents among the eligibles.

IV

IV Appointment of a 4th Judge to the Chief Court.

The work in the Chief Court seems to be rather heavy. Constant inspections of Subordinate Courts and the work therein which is very necessary to ensure and keep up their efficiency can not be conveniently made by the Judges at present.

The appointment of a 4th Judge to the Chief Court would ensure;

(i) Expeditious disposal of work therein

(ii) Constant inspection of the Subordinate Courts which are very necessary. Such frequent inspections of the Subordinate Courts will enable several matters which

which can not be taken by the very formal way of appeal or revision being brought to the in notice and rectified and some of the wan- -ton errors, ministerial and judicial being considerably checked ~~prevented~~ and ~~the~~ by a higher tone would be infused into the Subordinate Service which is now in a deplorable condition.

V Separation of Judicial from the Executive

This is a question that has been often brought to the notice of the Government and left undecided. To ensure judicia purity and unbiased judgments, and also all

all expeditious dis-
- posal of criminal
cases, it is undoubtedly
an urgent matter
to be taken into con-
- sideration and
effect be given at
an early date.

Of an investiga-
- tion be made into
the very long duration
of criminal cases
pending before
magistrates, Sub-
- division as well
as Taluqs, the number
of adjournments
the cases have under-
- gone, and the inex-
- pressible worry
and annoyance
the parties & witnesses & subjects to,
not to speak of their
detention from their
usual avocation
such as Agriculture
Industry

57

Industry &c which
is their sole source
of living, the Govern-
ment will be con-
vinced that the
Executive can & will not
cope with Criminal
work along with
their Revenue and
other Executive duties.

Laxity in the
Criminal Administra-
tion would not only
frustrate the very
object of Criminal
Law but also serves
as a means of a
rumination to the
unfortunate
subjects concerned
This I say from
my repeated per-
sonal experience
of the state of affairs
prevailing.

~~Appointees~~

Appointment of Stationary magistrates

58/ This difficulty of the long-standing grievance can only be met by divesting the Executive of their magesterial powers and appointing at the Head-quarters and important centres, experienced judicial officers as Stationary magistrates. If necessary, the creation of Bench magistracy for disposing off petty ~~Criminal~~ cases in important Head-quarters may also be thought of and tried.

VI Establishment of an up-to-date Library in all Division Head quarters, if not in the District Head-quarters and

This is a long-standing and ~~bad~~ an urgent need for apparent reason and may be carried into

and keeping it accessible to those in need of it.

effect at an early date, as this is a material adjunct to further the object of the Government in the matter of efficiency in judicial administration.

VII Dual system of recording evidence to be reintroduced.

Since the abolition of this system, difficulties are being often experienced of incorrect renderings, translations, and recordings of the vernacular statements of witnesses and parties. Often times Vernacular expressions are misunderstood and misrendered into English without the knowledge of the parties and witnesses at the time.

Mad

That when an attemp
is made to have th
record corrected al
kinds of unfavourab
constructions are pu
and sometimes
the corrections are
not even recorded
owing to defference
of opinion. when the
depositions are rea
to the witnesses in the
monotonous way
and tone of the court
clerk. taking the
witness to a corner
of the court-hall,
as is generally
done in some courts
the ignorant wit-
-ness will not be
in a position to un-
-derstand the full
bearing of the trans-
-lation and correct
it. Certain verna-
-cular expressions
which

which are capable
of being construed
and explained to
lose their effect or
have a different
meaning altogether
when rendered into
English by some of
the Judges in their
usual hurry.

This anomaly
and harmful course
can come to an end
only by the long-
maintained former
procedure and dual
system of recording
of evidence, and I
would suggest
this to be an urgent
matter to be taken
into consideration
by the Government
and redressed.

VM

VIII Preparation of a digest of the Mysore Law Reports and the Chief Court Reports up-to-date.

Since the publication of the digest of the first ten volumes of the Mysore Law Reports, several years have elapsed and a number of Reports of Chief Court decisions have been published, a lot of changes in the construction of law and procedure have been introduced.

An up-to-date knowledge of the decisions of the Chief Court both to the Bench and to the Bar as well as to the public is a necessity. The preparation of a consolidated and exhaustive digest of all the Mysore law reports and the Chief Court Reports up-to-date is urgently needed in the interest of the public.

...TARAMAYYA,
...DVOCATE.

D. & Proc. No. 43

"Kala Nidhi," Malleswaram

Bangalore, 8th April 191[illegible]

Dear Mr. Srinivasa Iyengar,

I herewith enclose a copy of my note on the needs of the Judicial Department and on the methods of recruitment.

I remain,

Yours sincerely,

[signature]

While speaking of the recruitment for judicial services and other urgent needs for the efficiency of the judicial Department, it will not be amiss to take a brief survey of the methods that prevail in this State for the performance of the functions now allotted to the judicial department. In such a survey a few salient points will have to be noticed for a correct appreciation of the conditions of the society for whose benefit the services are meant to be provided by the State.

One important factor is viz., that Mysore will have to be considered in two different stages, (1) Expanded Mysore before the treaty of Seringapatam, & (2) Mysore after the treaty of Seringapatam, and again the latter in three different stages, when it was directly under His Highness the lamented Manmudi Krishnaraja Wudayar, afterwards under British administration, and again under the present rulers after rendition.

Mysore under British administration was treated on similar lines as British provinces in devising administrative machinery and in the introduction of almost all British enactments. In such a treatment broad considerations prevailed even in the handling of small details.

Mysore under the ancient rulers had the barabulotti system of services. It satisfied the conditions of the society in villages and towns. In 1654 during the reign of Kantirava Narasaraj the first blow was struck at the power of the patels. They, however, did not lose all influence till the time of Tippoo but their power for good was reduced to a minimum during the regency of Purniah in the complete confiscation of their inam lands. The shanbhogs, whatever influence they had in the villages lost it with the introduction of the revenue, Survey and Settlement. The other services among the barabulotti also disappeared with the introduction of the Revenue, Survey settle-

[illegible] have dis-

settlement. Only the services of thotis, thalwars and Neergantis still continue.

In the preventive jurisdiction of crime, the effect of the dislocation of the village system did not receive the necessary attention from time to time. The constitution of the regular police force has not altogether been a blessing while the blot remains that no proper solution has been arrived at for any kind of remuneration to patels, shanbhogs and other village servants for the performance of village police functions. The increase of the police budget year after year ignores altogether the remuneration to the intermediaries between the people and the Government to whom the State entrusts the performance of the most important functions both preventive and remedial. The making and unmaking of crimes rest with the intermediaries. The establishment of judicial tribunals and their work can only be estimated if a proper adjustment of police functions be devised. Till then we can only find a swelling of establishment of the police and magistracy out of all proportions and the burden of taxation is imposed on the village community which form the bulk of the population. The relative importance of the police functions performed by village servants and the regularly constituted constabulary will have to be determined and the expenses incurred will have to be equitably distributed. Under this system the ill-paid and corrupt police and the village officials unrecompensed for their work in criminal investigation play into each other's hands and manipulate and distort cases making it impossible for parties to get justice.

In the constitution of the regular magisterial courts much of the simplicity that existed in ancient times has disappeared. With the system that prevailed among our ancients the defects that were noticeable were that the nicer distinctions among crimes were somewhat ignored but it is to be borne in mind that the safeguards that existed have dis-

disappeared in the trial of offences before our magistrates. In the ancient times there were two panchayets, one for the trial of ordinary offences and the other for offences which deserved committal to the higher tribunals. If the system of a trial before two panchayets for offences which were committed to higher tribunals, was unsatisfactory, the dispensing of the panchayet before a committing magistrate now has certainly not added to the better finding of truth in sifting out evidence by committing magistrates. The present system is no advantage to the community but on the other hand it is dilatory and expensive and subjects parties and witnesses to unnecessary inconveniences, trouble, annoyance and expense out of all proportions to the benefit which a member of a well-constituted society is likely to derive. It is true that some provision is made for payment to some witnesses but the village servants who bear the brunt of the work in the police investigation and in their attendance before the committing magistrates and sessions judges as witnesses are not remunerated at all. So also important witnesses who are dragged before the police, magistrates and sessions judges. The long distances they have to travel from their homes and the unnecessary detention during busy seasons are important factors for serious consideration.

With regard to offences triable by magistrates, the procedure ought to be made much more simple. Compoundable cases according to the local conditions will have to be catalogued and their trial might safely be left to a new class of magistrates brought under existence nearer homes and performing honorary functions aided by a panchayet. Such a system will avoid delay and expense and justice does not suffer in a large majority of cases by the simplicity of the procedure. It is to be borne in mind that compoundable offences deserve a very simple handling. This method of treatment will remove from the con-

consideration the much vexed question whether our amildars should be divested of magisterial functions. Whther divested or not, the importance attached to the academical discussion whether an amildar should be invested with magisterial functions will practically disappear. If the status of the amildar be raised the necessity for employing a large number of assistant commissioners will cease and the amildar will really become the backbone of the administration.

The establishment of one judicial assistant or sub-judge at each of the district headquarters will contribute to the speedy disposal of first class magisterial cases and of offences triable by assistant sessions judges. This system prevailed even before the Munsiff's courts were established. The creation of a long list of Assistant Commissioners with magisterial powers has not proved, by experience, beneficial either in the speedy disposal of criminal cases or in avoiding the trouble, annoyance and expense to the parties and witnesses. Besides creating judicial assistants or sub-judges at each of the District Headquarters for the administration of criminal justice, the system of enlisting retired officers and other non-official gentlemen to form bench courts in District headquarters might also be attempted.

During ancient days the simplicity of ryots did not afford much scope for litigation. The disputes of a civil nature were few and far between. The local panchayet, the amildars and the higher revenue officers in whom civil jurisdiction rested, permitted a ryot litigant to get his grievances redressed without much cost. Even during the British administration, the amildars, the assistant superintendents, Deputy Superintendents, Superintendents and Judicial Commissioners gave the relief. For a time there was no court-fee levied, but it was thought that a levy of court-fee would prevent the filing of false ¢ claims and therefore the introduction of court-fee was recommended and

and adopted. At the present moment it cannot be said that the introduction of court-fees has suppressed the filing of false claims. The tendency to file false claims is as rampant as, if not more, in the present time, than in the old days but the cost and the delay in the disposal of claims is an important factor now-a-days. With a State like ours mainly depending upon agriculture the ancients devised land tenures according to the condition of the society. The Government and the official staff were as much interested in the battayi tenure to get lands cultivated as the ryot was anxious to procure a living. In such a state of society there was no necessity to make a provision for filing a suit against Government when the obligation on the part of the Government was not fulfilled. The notion that a Sovereign cannot be sued in the courts created by himself had some support for the reason that no claims of such a nature could possibly exist in ancient days. After the introduction of the laws on the lines of British Indian enactments there was no reason to make a retrograde departure in removing the provision from the Civil Procedure Code for the filing of suits against Government for infringement of private rights. Land revenue and Bajabab constituted the main sources of Government revenue. Many special departments were not needed for safeguarding the interests of Government. With the introduction of Revenue, Survey settlement the Government provided for a periodical fixity of the land revenue by converting the payment in kind, into payment in cash; thereby, the obligations between individuals and village communities for services to be rendered disappeared. The village communal tie was broken up. In removing the compulsory nature of the individual services, the Government have not substituted in a systematic manner adequate obligations on themselves, in all those cases in which such obligations did

did exist in ancient times. There has been some speculation in the classification of wet and garden lands by the Survey Department in the absence of a guarantee for the supply of water for one crop. The determination of the atchkat under a tank is not calculated on a scientific basis. The Survey and the Revenue Departments do not generally adhere to scientifically established principles of determining atchkats and for making rules for the supply and regulation of water. The interest of Government revenue should not be the sole aim if speculation by Government is not to be permitted. Is it not speculation in allowing a ryot to raise a wet crop with the full knowledge that the water in the tank is not sufficient for the area unscientifically assessed? In all cases of doubtful or precarious water supply, the Bombay Government in their resolution No. 2759 dated 15th March 1907 issued orders for the abolition of wet rates. Here the Survey Department which has copied the Bombay system does not care to introduce the Bombay orders issued for the benefit of the ryot but goes on enhancing the revenue in the resettlement, without considering the question of pointing out the non-performance of the obligations by Government. The special privilege claimed by Government for not being sued is a premium for neglect of duty on behalf of the Survey Department. Under the circumstances special side issues will arise. If the civil litigation between a ryot and a ryot, between a ryot and a proprietor, and between a ryot and a money-lender has increased or shows a tendency to increase, the Government might not, in the first instance, trace the direct cause in the speculative tendency of the Departments. The baulking of the fruits of labour by bringing wet lands under cultivation and failing to realise any profit thereby were taken for granted, the consequences will have to be seen in different directions in litigation

litigation in indirect ways. Government does not hold itself responsible for culpable omissions. The civil courts look to the laws for the administration of justice. They cannot go behind and seek the conditions of life. The present school-amildar is not in touch with the ryot as the amildar of ancient type. The Battayi system does not exist now for the amildar to understand the conditions of success for the agriculturalist. During these 25 years the creation of special departments like the Forest, Excise and Police have all contributed to the curtailment of ryots' privileges. A ryot cannot live without cattle. Forest Department is an enemy to cattle life. For many an infringement of private rights, the ryot cannot raise his little finger against the servants of these Departments. Unfortunately as aforesaid the litigation before Civil courts will appear in other forms. There is a vast difference between ordinary civil suits and suits due to causes which might indirectly be traced to the multiplication of several departments. Either the Government must be prepared to allow its subordinate officers to be sued or devise means to differentiate between national and commercial services undertaken by the State. Our judicial tribunals must be capable of securing to each humble subject of His Highness the Maharaja the enjoyment free from molestation of the full benefit of the fruits of his labour. The existing procedure in courts is incompatible with such an ideal in the absence of a remedy against a department or departmental officer. In this respect comparison becomes somewhat difficult when one imagines the state of things in British India or in European

European countries.

The cry that Mysore is not able to supply men to judicial offices of responsibility is often heard. In answer to this it might be asked whether an enquiry that the executive department of the State has not been hasty in introducing too many laws without any need for them, in Mysore, or, sufficient time for the people and the judicial officers to assimilate new ideas, will reveal the fact that the introduction has been more rapid than in other parts of the world. The recruitment of retired officers from British India to the post of Chief Judge without any experience of the conditions of Mysore and with the incident attached to it unlike other High Courts in the trial of trivial civil and criminal appeals in the Bangalore Division, has not been conducive to expect from among the capable servants to devote their time and leisure for the study of local conditions and to suggest proper remedies in the matter of simplification of laws instead of making them intricate and multifarious. A further enquiry will also reveal the fact that more experiments have been tried by the retrenchment committee in the abolition and establishment of courts than in any other department of the State. The want of local experience in the gentlemen recruited as chief judges has contributed to the serious dislocation of business and confusion of ideas relating to the main issue of the efficiency of the judiciary. The prominent defects of recruitment are unfortunately being felt. The remedy, therefore, lies not in attempting such recruitment but in studying the local conditions and in applying proper remedies.

The treatment accorded to the Bar by the executive Government in the State is very enervating and is likely to kill all life in the Bar if the existing state of things should continue. If a gentleman of equal attainments and intelligence should prefer to enter the Bar on

on a certain date while his friend entered the service, does not reason teach that one has as good an opportunity as the other to study human nature? In such a case why should the executive look down upon a member of the Bar because the local reputation is to the effect that the earning of the member of the Bar is less than the salary of his friend who is a public servant. The test of income is fallacious for effecting a comparison and weighing him in the scales of official notions. Again experiments have been made from time to time to cut down the salary and the status of the Government advocates and public prosecutors in this State. The public prosecutor is expected to be a just intermediary in protecting the rights of the people and the Government. He is expected to take an impartial view in weak cases committed to the sessions. For such an important service the judge is given a certain status whereas his colleague the public prosecutor is degraded to the position of a small official with Rs.2/- batta a day to maintain his position while he goes and conducts sessions in a mofussil district. If this system is continued in treating the members of the Bar by giving them quasi-Government appointments with small pay and allowances it is inconceivable as to how a member could maintain his prestige. It is imperative, therefore, that the status of these quasi-Government officers should be raised in the estimation of the people as well as in the estimation of other Government officers who perform less important functions.

It is practically denied to a member of the bar to hope for preferment in the service of his country unless at the outset of his career as member of the bar he thinks of taking up a munsiff's post. This, in my opinion, is highly detrimental to the sturdy growth of healthy feeling between officials and non-officials. A careful study

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study of the situation has become absolutely necessary with the number of fresh recruits to the bar year after year showing a tendency to increase. The attainment of double degrees and the expenditure incurred by the parents for fitting a young man up for the profession will have to be taken into consideration. Much, therefore, lies in the treatment accorded to a member of the bar who is after all an officer of the court expected to help the administration of justice.

I now propose the following for consideration:-

(1) The remuneration of the village servants who perform police functions.

(2) The curtailment of the large number of police inspectors and jamedars and utilisation of village servants for policing systematically and remunerating them for their work.

(3) The creation of honorary village courts for the trial of petty civil cases and compoundable criminal offences.

(4) The creation of tribunals for the trial of criminal offences nearer homes to the parties and witnesses instead of driving them long distances without adequately remunerating them in the shape of allowances.

(5) The creation of bench courts in the district and taluk headquarters.

(6) The establishment of sub-courts in each of the district headquarters corresponding to the judicial assistants of the pre-rendition days empowering them with civil and criminal appellate jurisdiction with additional powers of assistant sessions judges.

(7) Reducing the number of revenue assistant commissioners, exercising magisterial functions.

(8) Raising the status of public prosecutors and Government advocates.

(9) Notions for recruitment to the judicial service in Mysore will have to be changed by a practical proof that the highest service are not denied to the members of the Mysore Bar as they are not in British India or in England.

(10) If a mistake is once made in the recruitment and if the Government is convinced of the mistake, an officer should not be permitted to serve in the judicial department to the detriment of public interests.

(11) The institution fee might be raised from twelve annas to a Rupee on every 10 Rs. valuation. The levy of further fees for processes to defendants and witnesses in the shape of court fee stamps might be dispensed with thereby simplifying the procedure.

In conclusion I would earnestly suggest that every effort will have to be made for securing the best local talent available for judicial services. The Judicial Department of the State should no more be treated as an orphan by the State, in effecting retrenchment to the detriment of public interests.

Bangalore, 6th April 1914.

D.O. No from 76.

Mysore
11/4/14

My dear Mr Kaisey Rao

Thanks for your kind
D.O. I am sorry that
I could not send you any
more opinion subject
except some re account
Pressure & Comb. Heats.
Hereafter I am sure
Closed. I shall be able

Enclosure No. 7. 76

D.O. No. 22. C.G.R. Dated 18/5

76

D.O. From No. 55

19

Office of the Govt: Advocate in Mysore,
Bangalore dated, 18th May 1914.

Dear Sir,

Some of my views on the larger questions involved in the Judicial reforms and recruitments to the Judicial service are contained in the two annexed statements which I forward herewith. I request that you will kindly acknowledge the receipt of the same.

Yours sincerely,

Government Advocate.

D.M.Narasinga Rao, Esq.,
Offg. Secretary to Govt:
Genl: & Revenue Deptts.

Statement No.I.

Judicial Reforms.

1. To bring about uniformity of procedure and to give equal treatment to all the 3 divisions in the State, it is -- desirable that first appeals in the Bangalore Division should be direct to the District Court Bangalore, the pecuniary ---- limits being the same as those that obtain in the other two - divisions.

2. The above procedure is likely to result in diminition of work in the Chief Court, but if it is directed that all appeals from Sub Judge's decisions in original and Misc: cases should be direct to the Chief Court, it is expected that such diminition would be made up.

3. Sub Judges of approved merit may be invested with unlimited pecuniary jurisdiction but suits of the value of over 10,000/- rupees shall in the 1st instance be instituted in - the District Courts and transferred for disposal to the Sub - Judges at the discretion of the District Judges.

4. Temporary Sub Judges with unlimited pecuniary jurisdiction and invested with the powers of Assistant Sessions -- Judges may be appointed as occasions require for the removal of conjestion of work in the permanent Sub Courts and District Courts.

5. Appeals filed in the District Courts shall as far - as possible be disposed by the District Judges themselves. The power of transfer to the Sub Courts should be very sparingly used.

6. To ensure speedy disposal of the Civil Appeals in the Chief Court it is desirable that the records of all the appeal cases in the Chief Court should be printed. The small extra cost incurred is worth while incurring in view of the - advantages gained.

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7. The sittings list in the Chief Court may be revised in a suitable manner so as to give the litigants the benifit of 5 sittings in a week in the Chief Court. This procedure - is likely to cut short the available time for the previous - preparation of cases and the writing of judgments. But as - the three judges will not be engaged on the Bench throughout the week suitable arrangments may be made to overcome the said inconvenience. If the Judges of the Chief Court agree an --- experiment in this direction may well be tried and if the --- result justifies the departure it may be permanently adopted.

18. 5. 44

Statement No.II.

RECRUITMENT.

1. Munsiffs.

The recruitment shall mainly be from the profession. Competant Sheristedars of District Courts and duly qualified Bench Clerks in the Chief Court may also be appointed. The prospects of Munsiffs have, within recent years been greatly improved. But to make the service -- really attractive to decent practitioners, members of the profession may in deserving cases be started on Rs.200/- a month instead of Rs.150/-.

2. Sub Judges.

Out of 3 Sub Judges two appintments should go to deserving Munsiffs and the third to a qualified member of the Bar of not less than 10 years standing.

3.District Judges.

Likewise 2 out of 3 appointments should be filled up by giving promotions to competant Sub Judges and the third appointment should be given to a member of the Bar of not less than 15 years standing, if a qualified - member is available.

4. Chief Court.

Members of the profession may be given one out of three places on the Chief Court Bench and this practice is not without precedent in British India and in other - Native states. In fact except in the case of Mr.C. --- Meenakshayya there has been no instance in Mysore where a member of the Bar has been selected for this honour. In the Native states of Travancore and Cochin, the Head -- Sirkar Vakil is usually appointed after some years of approved service a puisne Judge of the Chief Court. I do not beleive the members of the profession are so far ---

far inferior to those elsewhere as to be considered ---- totally ineligible for recognition of this kind. A step in this direction will considerably improve the tone of the bar, create a healthy emulation for distinction and strengthen the higher judiciary.

5. Law officers of Government.

The emoluments and prospects of Public Prosecutors and the Government Advocate are by no means alluring and will not unless improved, attract capable men. The term of appointment must be fixed at 5 years. Public Prosecutors should start on Rs.200/- a month and rise to Rs.350/- the maximum salary attached to the office in 5 years, - the increment being fixed at Rs.30/- a year. Government Advocate should start on Rs.500/- a month and rise to - Rs.700/- in 5 years at the rate of Rs.40/- a year.

6. General.

The Judicial service must be a self contained one and those that seek service in the Judicial Department - should ordinarily hope to rise only in that Department. Recruitments for the judicial service from other Departments and vice versa though attended with certain mutual advantages has the effect in the long run the effect of - impairing the efficiency of the service in general.

18-8.

Minute on Judicial Reforms.

The most satisfactory system of administering justice is that which will, on the one hand, discourage and minimise resort to the costly, wasteful and protracted litigation before the regular Courts, which is the bane of the Indian Judicial System, and, on the other, facilitate the thorough and prompt, and at the same time certain and final, disposal of all litigation that does come before those Courts.

2. In order to ensure the attainment of the first of these objects, I know of nothing more effective than the establishment at convenient centres of Advisory Courts, consisting of three or more disinterested, intelligent and worldly-wise members, before whom all intending litigants must necessarily lay their cases before resorting to the regular Courts of justice. The Advisory Court will hear both sides--without the intervention of legal practitioners, though friends of parties may be allowed to appear,--and try and bring about an amicable settlement or declare its own opinion as to what is right and just. Evidence will be heard but not recorded; in fact there will be no writing

writing except, firstly, the pleadings, where the parties c choose to present their cases in writing, or the Court's summary of the respective contentions where these are put forward orally, and secondly, the final "advice", award or decision, by whatever name the result may be called. The Advisory Court will dispense simple, equitable common-sense justice between man and man, untrammelled by technical laws and rules, substantive or procedural, and unembarrassed by the interference of gentlemen learned in the law but not exactly interested in bringing about the private and peaceful adjustments of disputes. Unless the Advisory Court feels the dispute to be beyond its depth or for other reason thinks it desirable to refer the matter to a regular Court, or unless it certifies at the request of either party that the case is a fit one to be litigated upon, no party will be at liberty to file a suit in a regular Court except upon special leave granted by a Court not inferior to a District Court (if necessary after hearing the opposite side also); and such special leave should not be granted except upon the ground that some important principle not covered by the decision of the Advisory Court is at stake or that justice equity and

good

good conscience necessarily require a regular trial. While no stamps or court fees would be payable in the Advisory Courts, the scale of court fee for regular suits may be substantially increased, so as to further discourage resort to that form of litigation. // The details of the scheme may be easily worked out, but this is the main outline, and the object is to give parties a chance of adjusting their disputes in a less costly and ruinous and much more simple, expeditious and (taking it all in all) satisfactory way than by a stand-up fight to the bitter end in the frigid atmosphere of the Courts of formal justice, under influences hardly calculated to bring about amicable settlements.

8. Passing on to the other object, it is not easy, so far as first disposals of suits are concerned, to improve upon the existing arrangement under which a single Judge collects all the available materials before arriving at a decision,--assuming ofcourse that the Judge is a capable and experienced man and that he is not distracted or harassed (as he is at present) by a multitude of minor duties which might well be discharged ~~performed~~ by a smaller officer.

As regards appeals, there should in my opinion—

be only one appeal on facts, and that should lie to a Bench of two Judges; and the opinion of the Bench, or, where the Bench is divided in opinion, that of the Judge who agrees with the Court below, should be final on all question of fact.

A second appeal to the highest or Chief Court should only lie on a substantial and material question of law or justice, the existence of such a question being either certified by the Court of first appeal or found by the Chief Court ~~to exist in the case~~, and such second appeal should invariably be heard and disposed of by a Bench of three Judges of the Chief Court.

4. With this general outline of the system before us, we may now descend to details.

Original Courts, or Courts entrusted with the first disposals of suits, may consist of two classes. The first class will comprise the existing Munsiffs' Courts to be styled (as in Bombay) Courts of Subordinate Judges, and will be entrusted with pecuniary jurisdiction up to (say) Rs:2,000/-. Each Subordinate Judge should have, as head of

his

his establishment, an Officer of suitable educational and professional qualifications on adequate pay ~~and~~ who may will be styled "Munsiff", and who, in addition to office supervision and correspondence, will relieve the presiding Judge of the preliminary work of cases (prior to the commencement of the trial proper with the framing of the issues) and also dispose of cases of trifling importance, including small causes up to (say) 50 Rs: in value, routine applications and the easier descriptions of execution work. It is a question whether these "Munsiffs" may not do registration work as well, replacing the existing staff of Sub Registrars.

5. The other class of Original Courts will consist of District and Sessions Courts, one for each District; and the presiding Judges will do nearly the same work as at present, disposing of all suits above the jurisdiction of the Subordinate Courts, and of all Sessions cases, and also perhaps of appeals in unimportant criminal cases and in civil cases of trifling value or importance in which no further appeal is contemplated. These Judges may do the

duties

duties of District Registrars as well, and should (as in the case of Subordinate Judges) have an office assistant of sufficient pay and status to be entrusted with the management of the office and of the preliminary work of cases.

6. Above these Original Courts will come the Court of First Appeal, or intermediate Court, consisting of two or more Judges, the number to be fixed from time to time with reference to the work to be coped with. It may be attached for purposes of establishment, records etc., to the Chief Court as an annexe thereof, so that it will practically have no work outside the disposal of first appeals. The Court will hold its sittings at Bangalore as a rule; but if it be found by experience to be really more convenient, the sittings may be held by turns at Bangalore Mysore and Shimoga.

7. The Chief Court will be the supreme Court of appeal, revision and superintendence, and will consist of such number of Judges not less than three as the Government of His Highness the Maharaja may fix from time to time

Generally only substantial questions of law, extreme or patent cases of injustice or of violation of fundamental principles, and the like, will come before this Court, which will thus virtually perform for the Mysore State the functions of a Privy Council, besides being also (what the Privy Council is not) the highest administrative authority for the Judicial Department of the State. The confirmation of the death sentences may also be reserved for the Chief Court. Only decisions of this Court will be reported. All matters of Legislation affecting civil or criminal law, the procedure of Courts, the powers of functionaries, etc., will be referred to it for opinion. Several of the functions now vested in Government, such as the investiture of Munsiffs and Magistrates with additional or higher powers, may well be delegated to the Chief Court, whose powers may also be enlarged in various other directions.

8. Under the system outlined above, the separation of Judicial and Executive functions will present no difficulty. It may in fact be readily effected:-

(1) By transferring to "Subordinate Judges" the disposal of all criminal cases other than those connected with the

preservation of public peace and order, the prevention of offences, the removal of public nuisances, and the like;

(2) by transferring to Sessions Judges the disposal of the less important criminal appeals, and the rest to other the Inter-mediate Courts.

District and other Magistrates (who will then be virtually Executive Officers pure and simple) will only deal with the class of cases excluded above from the jurisdiction of the Judiciary proper, and may, on the other hand, find time to look after Excise and other work now dealt with by special establishments, and possibly even Police work.

9. But whether any such ideal system as sketched above is or is not adopted, there must be always maintained a sufficient number of Courts and Judges to cope adequately with the volume of litigation that may exist. The State derives a substantial contribution from litigants in the shape of court-fees etc.; and if this is insufficient to meet the cost of maintaining an adequate Judicial establishment, the State ought not to grudge the balance in the interests of social and political order. As it is,

there

there is nothing more disheartening to litigants of the better class, or more demoralising to all, than the indefinite protraction of cases due to inadequate agency. Speedy justice even if imperfect, is preferable to perfect justice unduly postponed.

10. As a matter of fact there is at present a good deal of congestion of work in most courts, due primarily to the growing accumulation of work beyond the limits of normally feasible disposal. It is idle, and shows an ignorance of actual conditions, to attribute this to lethargy or unwillingness to cope with work on the part of the presiding Officers: that may be so in individual cases, but we are dealing with the state of things as a whole.

So far as the Chief Court is concerned, an obvious and immediate remedy for such congestion as exists is to relieve it of the first appeals of the Bangalore Division which ought properly to be disposed of by the District and Sessions Judge of that Division. But the District and Sessions Judge is unable to dispose of any but the simpler description of such appeals that are perio

periodically transferred to him, because he has the sessions cases of three Districts to try at the head-quarters of those Districts. Hence one more District and Sessions Court is a necessity; and if this is sanctioned, the eight Districts of the State may be divided two and two among the resulting four Courts. Thus, the Court at Bangalore may have jurisdiction over the Bangalore and Kolar Districts the Court at Mysore over the Mysore and Hassan Districts, as at present; and the Court at Shimoga over the Shimoga and Kadur Districts (thereby relieving it of the work of one District); while the new Court to be stationed at Tumkur may exercise jurisdiction over the Tumkur and Chitaldrug Districts.

Each Division has at present a Subordinate Judge who is also an Assistant Sessions Judge. The new Division need not have one till the state of work therein justifies it.

As regards arrears in the Munsiffs' Courts, the prevention thereof is a matter primarily dependent upon the due regulation of the number, distribution and territorial jurisdiction of these Courts; but till such time as it is found impossible to consider and deal with the ques-

question as a whole, the evil may be mitigated by the appointment of one or more additional Munsiffs who will go round and help to clear off arrears in the more congested Courts.

11. The recruitment of officers for the Judicial Department is a matter wherein, with a comparitively limited field for selection, it would be wise for Government not to bind itself at this stage by any hard and fast rules. A substantial proportion of the appointments to the lowest class of Judicial Officers will no doubt always be made from among the ranks of practising lawyers; and it is a question why those of them with a longer standing and larger experience at the bar should be excluded by virtue of a rule limiting selections to persons of 35 years of age and below, or why at any rate the limit may not be raised in the case of practising lawyers to (say) 45 years. Selections from among men already in service will relatively be infrequent, but should not be barred. It would certainly be a good plan to train for judicial work civilian Officers with aptitude for the law; and as regards Judicial Sheristedars and other ministerial officers,

though

though the selections made in recent years have not always proved happy, this I think is due not so much to any inherent fault of the method as to the unhappiness of the choice.

But whatever the method of recruitment adopted, selections should always be governed by the one aim of securing the best men available. Candidates known to and whole-heartedly approved by the Chief Court, and such only, should be selected for first appointments. Promotions and increases of pay must be regulated strictly and solely by merit, that is by the quantity and quality of the work done and not merely by seniority or by a time scale. And, what is no less important, inefficient officers must be rigorously weeded out, if necessary by compulsory retirement at any age or period of service. The pension rules should be suitably revised so as to allow of this being done.

12. One great disadvantage which Judges in the Mofussil and even at head-quarter stations suffer from is the want of a good law library, as hardly any reference books are supplied to Courts beyond the authorised series of law reports. It will remove this disadvantage and tend

t end to encourage a continuous study of the law if a c entral Law Library can be established at Bangalore which a ll Judicial Officers including Magistrates may be re- c uired to join on payment of a monthly subscription of, say o ne to three rupees, and from which they can b orrow books a nd journals on application. Practising lawyers may also b e admitted as members. And the usefulness of the institu- t ion may be enhanced by inviting its members to read pa- p ers and statt discussions at meetings occasionally thrown o pen to the public. Officers should also be kept up to the m ark by judicious criticisms(praise as well as blame) in a ppellate judgments and in administration reports. Leave o n favourable rates of pay should be freely granted to e nable officers to study for higher law degrees in India o r for the Bar in England.

13. The lack of proper accomodation for Judicial Officers in Mofussil stations is another evil which, on ac- c ount o f its serious consequences, should be remedied with- o ut delay. Munsiffs and Sub-Judges are obliged to rent h ouses belonging to private persons who may often be in- t ending litigants and sometimes practising pleaders. Judi-

Judicial Officers should, except in Bangalore and Mysore, be provided with quarters built, or taken over on rent, by Government, unless they have houses of their own.

14. An attitude of habitual suspicion and distrust is not exactly the way to evoke earnest and ungrudging service, and is particularly out of place in respect of conscientious men placed in responsible positions. But a periodical scrutiny of work is indispensable in order to ensure a sufficiently close correspondence between the work to be done and that performed, and to discover and eliminate errors and difficulties. This task is already being done to a large extent, and the quantity of work done by each judicial officer systematically checked on the basis of periodical returns and at times of inspections by reference to the Court-Diary etc.

The granting of adjournments is also noticed at such times; but a more systematic scrutiny may perhaps be promoted if it be made a rule that unnecessary or needlessly long adjournments should be looked into by the Registrar or Deputy Registrar of the Chief Court when records come up in appeal, with a view to the fact being

brought to the notice of the Judges for orders.

15. The disposal of cases may to some extent be expedited by reforms in the system of service of processes, (such as the taking out of successive sets of summonses, option to parties to serve their own witnesses themselves, optional service by post, payments of batta after examination, rewards to process servers for efficient work and so on); but these are matters of detail which cannot be gone into in this Minute.

16. And so likewise are various other minor though useful reforms, such as improvements in the system of preparation and transmission of copies required by parties; the replacing by a double system of cash account and account keeping (as in Treasuries) of the present faulty method under which the same official disburses money and keeps accounts therefor; the consolidation and amendment of the existing Regulations relating to the Chief Court and to Civil Courts etc,.

17. But I must specially allude to one matter which, though it will not be possible here to work out the minutiæ thereof, is of sufficient importance in connection with the efficiency of judicial administration to deserve passing mention; and that is the necessity for a thorough revision of the scale and emoluments of the subordinate establishment. That establishment is in some respects undermanned; and everywhere it is so miserably underpaid as almost to render inevitable habitual corruption and lethargic and indifferent work. This is particularly the case with the Process establishment, where salaries are low but opportunities for illicit gains innumerable. This is not as it should be. The pay and prospects of all officials generally must be materially improved so as, on the one hand, to attract better and competent men, and, on the other, to give every one a living wage according to his condition and to minimise temptations to improper ways of eking out a livelihood.

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18. In order to elicit information as to defects in existing procedure and suggestions as to improvement, and generally to facilitate the interchange of views, it will be desirable to have periodical conferences of judicial officers and members of the Bar at Mysore and Bangalore. These conferences may be presided over by the Chief or other Judge of the Chief Court; and as the number of persons taking part will not be very large and the object (as I take it) is merely to elicit opinion as to the practical working of the existing system the proceedings will be more or less brief and informal. Schemes of a rather more general and ambitious character, such as the establishment of a Privy Council, the separation of judicial and executive functions, the recruitment of Judges, and the like, which are beyond the purview of the Chief Court, may continue as at present to be brought up at the Representative Assembly.

M. Chandrasekhara Aiyar
Judge, Chief Court of Mysore

8th June 1914